UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/81/Add.5
7 October 1994

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1993

Addendum

ESTONIA*

[27 September 1994]

CONTENTS

		Paragraphs
Article 1	- The right of peoples to self-determination	1 - 10
Article 2	- Human rights and their protection	11 - 32
Article 3	- Equal rights of men and women	33 - 39
Article 4	- Derogation from adherence to the Covenant in time of public emergency	40 - 48
Article 5	- Restriction of rights	49 - 52
Article 6	- Right to life	53 - 73

* The information submitted by Estonia in accordance with the consolidated guidelines concerning the initial part of reports of States parties is contained in core document HRI/CORE/1/Add.50.

GE.94-19264 (E)

CONTENTS (continued)

	Paragraphs
Article 7 - Prohibition of torture and other cruel, inhuman or degrading treatment and punishment	74 - 81
Article 8 - Prohibition of slavery, servitude and compulsory labour	82 - 91
Article 9 - The right to liberty and security of person	92 - 99
Article 10 - All persons deprived of their liberty shall have the right to be treated humanely and with dignity	100 - 108
Article 11 - No person may be deprived of his liberty solely on the grounds of inability to fulfil a contractual obligation	109
Articles 12 and 13 - The right to freedom of movement and choice of residence; expulsion of aliens	110 - 117
Article 14 - Equality of all persons before the courts	118 - 131
Article 15 - Non-retroactive force of criminal law	132 - 136
Article 16 - The right of all persons to recognition everywhere as a person before the law	137 - 142
Article 17 - The right to non-interference with privacy	143 - 151
Article 18 - The right to freedom of thought, conscience and religion	152 - 160
Article 19 - The right to hold one's beliefs	161 - 167
Article 20 - Prohibition of propaganda for war	168 - 171
Article 21 - The right to peaceful assembly	172 - 175
Article 22 - The right of association	176 - 184
Article 23 - Marriage and family	185 - 203
Article 24 - The right of the child to protection required by his or her status as a minor	204 - 216
Article 25 - The right to participate in public affairs	217 - 227
Article 26 - Equality of all persons before the law	228 - 232
Article 27 - Ethnic, religious or linguistic minorities	233 - 241

Article 1 - The right of peoples to self-determination

1. Estonia endeavours to adhere at all times and in all instances to the principles contained in this article. The following provisions of the Republic of Estonia Constitution (EC) and other laws are directly related to the right of peoples to self-determination:

(a) Estonia is an independent and sovereign democratic republic wherein the supreme power of the State is vested in the people;

(b) Estonian independence and sovereignty are interminable and inalienable (art. 1, EC);

(c) The land area, territorial waters and air space of Estonia are an inseparable and indivisible whole;

(d) Estonia is politically a unitary State wherein the division of its territory into administrative units shall be established by law (art. 2, EC);

(e) State power shall be exercised solely on the basis of this Constitution and such laws which are in accordance with the Constitution. Universally recognized principles and norms of international law shall be an inseparable part of the Estonian legal system (art. 3, EC);

(f) The work of the Riigikogu (Parliament), the President of the Republic, the Government of the Republic and the courts shall be organized on the principle of separate and balanced powers (art. 4, EC);

(g) The natural wealth and resources of Estonia are national assets, which shall be used economically (art. 5, EC);

(h) The people shall exercise their supreme power through citizens who have the right to vote by electing the Riigikogu and participating in referenda (art. 56, EC).

2. The Riigikogu elections are held in accordance with the Riigikogu Electoral Law of 6 April 1992.

3. The referendum for the adoption of the Constitution was held in Estonia on 28 June 1992.

4. The right to vote in local government council elections rests with all persons who have attained the age of 18 years and who reside permanently on the territory of that local government unit in question (art. 156, EC).

5. During the occupation, a large number of former Soviet citizens were either forcibly settled by Soviet authorities or settled voluntarily in Estonia. These persons have the right, in accordance with conditions prescribed by law, to apply for and receive Estonian citizenship. However, the majority of these persons either do not want Estonian citizenship, have yet to apply for Estonian citizenship or have yet formally to receive Estonian

citizenship. So that these persons can participate in politics in Estonia, article 156 of the Constitution provides them the right to participate in local elections, under conditions prescribed by law.

6. Pursuant to article 3 of the Law on Local Government Elections (19 May 1993), the following persons have the right to vote:

(i) Estonian citizens who are at least 18 years of age on election day and who on 1 January of the election year permanently reside on the administrative territory of the local government in question and who are registered in the voting register,

(ii) Citizens of foreign States or stateless persons legally sojourning in the Republic of Estonia who on the day of elections are at least 18 years of age and who as of 1 January of the election year have permanently resided on the administrative territory of the local government in question and are registered in the voting register.

7. The right to be elected to a local government council is enjoyed by every Estonian citizen who is at least 18 years of age. Persons who have been convicted by a court of law and are serving sentences at a detention facility shall not participate in the elections.

8. On 20 September 1992, the first free and democratic parliamentary and presidential elections were held in Estonia. International observers confirmed that both these elections and the constitutional referendum were carried out in a free and correct manner.

9. The following missions have studied the human rights situation in Estonia:

(a) Ad Hoc Committee on Relations with Eastern Europe, Parliamentary Assembly, Council of Europe (31 October-3 November 1991);

(b) Norwegian Institute on Human Rights led by director Asbjørn Eide (3-7 February 1992);

(c) St. Petersburg Minority Rights Group (April 1992);

(d) Human Rights Subcommittee of Council of Europe Parliamentary Assembly (29-31 March 1992);

(e) Council of Europe Political Affairs Committee, Committee on Relations with European Non-member Countries, Legal and Human Rights Committee, Parliamentary Assembly Delegation (12-15 April 1992);

(f) International Helsinki Federation for Human Rights, the Danish Helsinki Committee (24-29 April 1992);

(g) Ad Hoc Committee of the Council of Europe (17-21 September 1992);

(h) Conference on Security and Cooperation in Europe (CSCE), Helsinki Commission (17-21 September 1992);

(i) CSCE Office for Democratic Institutions and Human Rights (ODIHR) Mission (2-5 December 1992);

(j) CSCE High Commissioner on National Minorities Max van der Stoel (12-15 January 1993);

(k) Council of Europe Committee of Non-member States, Parliamentary Assembly Delegation (18-20 January 1993);

(l) CSCE Permanent Mission began work in Estonia (3 February 1993);

(m) United Nations Mission (8-11 February 1993);

(n) International Helsinki Federation for Human Rights, Swedish Helsinki Committee for Human Rights (13-19 March 1993);

(o) International Helsinki Federation for Human Rights, the Danish Helsinki Committee for Human Rights (17-21 March 1993).

10. Since the Republic of Estonia was restored in 1991, at the end of the occupation and annexation by the Soviet Union, and was not established as a new State, it is understandable that only citizens of Estonia, as bearers of supreme power in the country, participated in political processes of constitutional significance. (The bases for obtaining Estonian citizenship are established by the 1938 Law on Citizenship, which is currently in force in its amended form.)

Article 2 - Human rights and their protection

11. Article 9 of the Estonian Constitution states that the rights, liberties and duties of everyone and all persons, as listed in the Constitution, shall be equal for Estonian citizens as well as for citizens of foreign States and stateless persons who are sojourning in Estonia. In accordance with article 12, all persons shall be equal before the law. Discrimination on the bases stipulated in article 2 of the Covenant is prohibited. Article 11 of the Constitution states that rights and liberties may be restricted only in accordance with the Constitution. Such restrictions must be necessary in a democratic society, and their imposition may not distort the nature of the rights and liberties.

12. Analysis shows that the list of rights and liberties that under the Constitution may be restricted by law and the conditions of such restrictions fully adhere to the provisions of the Covenant. Since the Constitution entered into force only on 3 July 1992, the majority of such restrictive laws have yet to be adopted and, as a result, the majority of rights and liberties are entirely unrestricted. The accordance between the Constitution and the Covenant is further guaranteed in article 123 of the Constitution, which states that "if Estonian laws or other acts contradict foreign treaties ratified by the Riigikogu, the provisions of the foreign treaty shall be applied".

13. The Constitution lists the following rights and duties of citizens of Estonia belonging to aliens:

(a) The right to vote in Riigikogu (parliamentary) elections and in referenda rests with citizens of Estonia (art. 56, EC);

(b) Only citizens of Estonia may be candidates for members of the Riigikogu or the President of the Republic (arts. 60, 79, EC);

(c) Only citizens are obligated to participate in national defence (art. 124, EC);

(d) The right to Estonian citizenship by birth is granted only to a child with at least one parent who is an Estonian citizen (art. 8, EC);

(e) The Estonian State shall protect only its citizens in foreign States (art. 13, EC);

(f) Deporting Estonian citizens from Estonia or preventing Estonian citizens from settling in Estonia is prohibited. Estonian citizens may also not be extradited to a foreign country where a corresponding foreign treaty has not been signed with that country (art. 36, EC);

(g) Only Estonian citizens may be members of political parties (art. 48, EC).

14. Aliens, pursuant to the Law on Aliens, are considered to be citizens of foreign States and persons who have been declared stateless persons (art. 3).

15. Deprivation of liberty for the purposes of obstructing illegal settlement in Estonia or deportation from Estonia in situations and according to procedures prescribed by law is possible solely in the case of aliens (art. 20, EC). See also article 13 of this report.

16. No Estonian citizen may be deported from Estonia or be prevented from settling in Estonia (art. 36, EC).

17. The Constitution provides that the conditions and regulations for the enjoyment of certain rights shall be established by law. The entire range of laws pertaining to these rights has yet to be adopted. These rights include:

(a) The right to engage in commercial activities and to form profit-making associations and leagues (art. 31, EC);

(b) The right to obtain information about himself or herself held by government authorities and in State and local government archives, unless disclosure of such information is prohibited or restricted by law (art. 44, EC).

18. These rights belong equally to Estonian citizens and aliens in Estonia only if the corresponding laws do not prescribe otherwise.

19. With regard to property rights, the Constitution states that the law may establish, in the public interest, categories of property in Estonia which are reserved for ownership by Estonian citizens and not by aliens (art. 32, EC).

20. Information regarding local government elections is contained in the section pertaining to article 1 of the report.

21. Positions in State and local government shall be filled by Estonian citizens, in accordance with procedures established by law. In accordance with the law, such positions may be filled by citizens of foreign States or stateless persons (art. 30, EC).

22. The Law on the Implementation of the Constitution was adopted together with the Constitution during the referendum and established certain restrictions for employment in specific positions. Until 31 December 2000, only persons who take a written oath of conscience may be appointed or elected or continue to work in a State or local government agency. In this oath, the person must swear that he or she has never been an employee or agent of the security, intelligence or counter-intelligence services of any State to have occupied Estonia, and that he or she has not participated in the persecution or repression of persons on the grounds of their political convictions, disloyalty, social class or service in the Government or defence services of the Republic of Estonia.

23. If any person refuses to take the oath or if the courts find that the information affirmed by the oath is not true, the person shall not be allowed to be a candidate for the position or, if already employed in that position, to continue to be employed.

24. The protection of rights and liberties is fully guaranteed to all persons, both citizens and non-citizens (arts. 11, 13, 14, 15, EC). The main instrument for this protection is the courts, which are independent in their activities (art. 146, EC) and shall declare as unconstitutional any law, legal act or other procedure which violates the rights and liberties established in the Constitution or which otherwise contradicts the Constitution (art. 15, EC). The highest court, the Riigikohus (National Court), shall declare as null and void any legal act which contradicts the provisions or spirit of the Constitution (art. 152, EC). The Constitution also provides for the institution of the Legal Chancellor, who is independent in his or her work, and who monitors whether the legislative acts adopted by the State legislature and executive and by local governments are in accordance with the Constitution and the law.

25. If such acts are not in accordance, the Legal Chancellor shall propose to the body which has adopted the act to bring the act into accordance with the Constitution or the law within 20 days.

26. If this is not done, the Legal Chancellor shall propose to the National Court that the act be declared null and void. The work of the Legal Chancellor is provided more precisely in the Law on the Organization of the Work of the Legal Chancellor (5 May 1993).

27. Where no other means are available, every Estonian citizen shall have the right to take spontaneous action against any forcible change of the constitutional system (art. 54, EC).

28. Every person shall have the right to bring a case before the courts if his or her rights or liberties have been violated (art. 15, EC). Aliens and stateless persons in Estonia have the right to protection by the courts, equal to the right for Estonian citizens, if not otherwise established in foreign treaties concluded by the Republic of Estonia (Law on Courts, art. 4, para. 2, 23 October 1991).

29. The Constitution establishes that only laws which have been published shall have obligatory force (art. 3, EC). All Estonian laws are regularly published in the Riigi Teataja (State Gazette), which is readily available to the public. The most significant laws are often also published in the press. Too, translations of Estonian legal acts are published in English, Spanish, French, German and Russian.

30. The text of the Covenant in Estonian was published in 1976, 1989, and most recently in 1993 in the Foreign Treaties section (II) of the Riigi Teataja. The text is available in all libraries, as is the Russian text of the Covenant.

31. Seminars on human rights are regularly organized for government officials and the public. Prominent experts on human rights from the United Nations, CSCE, the Council of Europe, the European Union and other international organizations, institutions and universities have given lectures in Estonia. Many government officials, university instructors, university students and local human rights specialists have also received training or practical experience abroad.

32. See also the section on articles 3 and 26 of this report.

Article 3 - Equal rights of men and women

33. As of 1 January 1992, of the total population in Estonia (1,562,052), women accounted for 53.21 per cent (831,091) and men accounted for 46.79 per cent (730,961).

34. In Estonia, men and women are equal before the law.

35. The equality of men and women was one of the few human rights significantly honoured under the Soviet occupation. Some laws in this area from the occupation period remain in force today. In the Union of Soviet Socialist Republics, women were granted some rights regarding social care and social security which were not given to men. In the past years, Estonia has worked to incorporate equality of spouses and of men and women into its legislation. For example, child support for single mothers has been changed to support for single parents, post-natal maternity leave to care for a child can be taken by either the mother or the father, and either the mother or father can be granted days off from work in order to care for a sick child.

36. Currently, the discrepancy lies in the age of retirement, which is five years lower for women than men, as established in article 5 of the Law on State Support Payments (17 March 1993), which entered into force on 1 April 1993.

37. Persons who have worked for at least 15 years in Estonia have the right to an old age pension according to the following chart:

Date of attaining age of retirement	Age	
	Men	Women
Prior to 1 January 1994	60 years	55 years
As of 1 January 1994	60 years 6 months	55 years 6 months
" " 1995	61 years	56 years
" " 1996	61 years 6 months	56 years 6 months
" " 1997	62 years	57 years
" " 1998	62 years 6 months	57 years 6 months
" " 1999	63 years	58 years
" " 2000	63 years 6 months	58 years 6 months
" " 2001	64 years	59 years
" " 2002	64 years 6 months	59 years 6 months
" " 2003	65 years	60 years

38. The Estonian Constitution states that every child with at least one parent who is an Estonian citizen has the right to Estonian citizenship by birth.

39. Estonia acceded to the Convention on the Elimination of All Forms of Discrimination against Women on 21 October 1991. See also the section on article 23 of this report.

Article 4 - Derogation from adherence to the Covenant in time of public emergency

40. If a situation arises which threatens the constitutional system of Estonia and the majority of its members, the Riigikogu may declare a state of emergency throughout the entire territory of Estonia, for no longer than three months. This may be done on proposal by the President of the Republic or the Government (art. 65 and 129, EC).

41. The President shall present a proposal to the Riigikogu on declarations of a state of war, for orders for mobilization and demobilization and, in accordance with article 129 of the constitution, on declaration of a state of emergency (art. 78, EC).

42. The Government of the Republic shall declare a state of emergency throughout the State or in parts thereof, in the event of a natural disaster or a catastrophe or in order to impede the spread of infectious diseases (art. 87, EC).

43. During a state of emergency or a state of war, the rights and liberties of persons may be restricted, and obligations placed upon them, in the interests of national security and public order, in the cases and in accordance with procedures prescribed by law. The rights and liberties prescribed in article 8, articles 11-18, paragraph 3 of article 20, article 22, article 23, paragraphs 2 and 4 of article 24, article 25,

article 27, article 28, paragraph 2 of article 30, article 40, article 41, article 49 and paragraph 1 of article 51 of the Constitution may not be restricted (art. 130, EC).

44. During a state of emergency or a state of war, there shall be no elections to the Riigikogu, for the President of the Republic or to the representative bodies of local governments, nor shall their authority be terminated.

45. The authority of the Riigikogu, the President of the Republic, and the representative bodies of local governments shall be extended if they should terminate during a state of emergency or state of war, or within three months from the termination of a state of emergency or of a state of war (art. 131, EC).

46. The right to initiate amendments to the Constitution shall rest with at least one fifth of the members of the Riigikogu and with the President of the Republic. Amendments to the Constitution may not be initiated, nor the Constitution amended, during a state of emergency or a state of war (art. 161, EC).

47. Regulations for a state of emergency shall be established by law (arts. 104 and 129, EC).

48. The Law on a State of Emergency is currently being drafted to be in full accordance with the Covenant.

Article 5 - Restriction of rights

49. Universally recognized principles and norms of international law shall be an inseparable part of the Estonian legal system (art. 3, EC). If Estonian laws or other acts contradict foreign treaties ratified by the Riigikogu, the provisions of the foreign treaty shall be applied (art. 123, EC).

50. During 1991, Estonia acceded to the following United Nations conventions regarding human rights:

(a) Convention on the Prevention and Punishment of the Crime of Genocide;

(b) International Convention on the Elimination of All Forms of Racial Discrimination;

(c) International Covenant on Economic, Social and Cultural Rights;

(d) International Covenant on Civil and Political Rights;

(e) Optional Protocol to the International Covenant on Civil and Political Rights;

(f) Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity;

(g) International Convention on the Suppression and Punishment of the Crime of Apartheid;

(h) Convention on the Elimination of All Forms of Discrimination against Women;

(i) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(j) International Convention against Apartheid in Sports;

(k) Convention on the Rights of the Child.

51. In 1993, Estonia signed the Convention for the Protection of Human Rights and Fundamental Freedoms and all protocols. The convention and protocols await ratification by parliament.

52. Estonia thereby also protects all rights of persons contained in these treaties.

Article 6 - Right to life

53. According to article 16 of the Estonian Constitution, all persons shall have the right to life. This right shall be protected by law. No person shall be arbitrarily deprived of his or her life.

54. According to the revised Criminal Code adopted on 7 May 1992 and which entered into force on 1 June 1992, death by firing squad as an extraordinary measure may only be used as punishment for three categories of felonies. According to the 1961 text of the Code, capital punishment could be applied as punishment for 30 criminal offences. Under the revised Code, capital punishment is permissible in accordance with article 64 - terrorism, article 65 - an act of terrorism against a representative of a foreign state or article 101 - murder with aggravating circumstances.

55. In the draft of the new Criminal Code, it had been recommended that the condition of "time of peace" for the handing down of a death sentence be removed, but this proposal did not find sufficient support. A new Criminal Code is being worked out in which there is no death penalty intended as a punishment.

56. A death sentence may be commuted to a life sentence in a maximum-security prison if an appeal for clemency is honoured.

57. According to article 78 of the Constitution, the President shall pardon convicted offenders at their request by releasing the offender from punishment or by reducing the sentence.

58. Women and persons who had not reached the age of 18 or were older than 65 at the time they committed their crime are not subject to the death penalty.

59. Carrying out of the death penalty is regulated by the Law on Executive Procedures (21 October 1993), in a separate chapter. The death penalty as an

extraordinary punishment is considered to have been completed upon the expiration of the condemned. The death sentence is carried out by firing squad. Execution of the death sentence is forbidden when the condemned prisoner has a disease, is under the influence of a drug or intoxicated by alcohol or is not of sound mind.

60. The condemned prisoner shall be kept in solitary confinement; communication with other prisoners is forbidden. He will not be made to work. The condemned prisoner has the right to be notified of the decision of the court to carry out the death sentence at least 10 hours before his execution, and to meet with a clergyman immediately before his execution. The condemned has the right to submit a final request to be honoured on the same day, which must be in conformity with law and be within available means. Such a wish will be fulfilled by the means of the prisoner's own funds or, in their absence, the prison's funds, not to exceed one third of the currently monthly minimum wage.

61. Article 141 - Executions may take place on the basis of an express permit from the National Court. The date of execution shall be set by the warden of the prison, who shall inform the President of the Republic, the Chairman of the National Court, the Prosecutor General, the judge of the court of sentence, and the Prison Commission of the date, at least three calender days in advance. It is forbidden to execute more than one prisoner at the same time, or in the presence of other prisoners. The prisoner's bodily and mental health shall be monitored immediately before execution. The prosecutor, the warden of the prison or a substitute, a representative of the institution in charge of the execution, and a physician shall supervise the execution. A member of the Prison Commission may attend the execution. The executioner, whose identity shall not be revealed to the public, shall be chosen by the prison warden. A statement shall be made regarding the execution, shall be signed by the attending persons, and shall be sent to the court that handed down the sentence. The prison warden shall inform the President of the Republic, the Chairman of the National Court, and the Prosecutor General of the execution.

62. Article 142 - In the case that the condemned prisoner falls ill, the prison warden shall grant a stay of execution. The new date of execution shall be set after the condemned prisoner becomes well again. The prison warden is required immediately to grant a stay of execution if so ordered by the President of the Republic, the Chairman of the National Court, or the Prosecutor General.

63. The following table shows the number of prisoners sentenced to death by courts in the Republic of Estonia from 1987 to 1991:

Year	Sentences passed	Death sentences passed	%
1987	5 060	2	.4
1988	3 460	1	.3
1989	3 264	2	.6
1990	3 532	1	.3
1991		2	

64. There have been no executions since the revised Criminal Code was adopted. The last execution was on 11 September 1991. At the present time, five prisoners are on death row. Two sentences were commuted by the President on 3 March 1992.

65. The use of firearms by the police and the defence forces is strictly controlled. The use of firearms by the police is regulated by the Law on Police (20 September 1990; provisions were added on 21 April 1993). Under article 15, a police official has the right to carry and use a firearm. A firearm can be used by a police official in a concrete situation as an extreme recourse, when fulfilling his service duties is not possible without putting life and health in jeopardy.

66. The use of a firearm is defined as the firing of a projectile at an object with the goal of hitting the object. A firearm may be used in the following cases:

(a) To prevent a criminal act where the life of the police officer or any other person is endangered;

(b) To capture and disarm criminals as well as to capture a person who committed a first degree crime;

(c) To free hostages;

(d) To protect a police officer or any other person who is serving the public good or is active in the fight against crime or who is being mobbed or attacked by an armed criminal;

(e) To prevent an attack on a police convoy or on any person being transported by the police;

(f) To apprehend a perpetrator of a serious crime or an armed escapee;

(g) To force a vehicle to stop which ignores repeated signals to stop or is fleeing from a pursuing police vehicle, firing only into its tyres;

(h) To destroy a wounded animal or as a protective measure against animals hazardous to humans.

67. The use of firearms and special measures (with the exception of self-defence measures) is prohibited:

(a) Against children, the elderly and apparently pregnant women, except when necessary to stop or prevent an armed attack, when being mobbed, or when necessary to disarm them;

(b) In diplomatic missions and consular posts of foreign States and the buildings, rooms and the territory belonging to representations having immunity on the basis of international agreements, also with regard to vehicles having diplomatic immunity, except with the consent of the heads of the representations or in other incidences regulated by international agreements;

(c) In buildings and rooms where flammable, poisonous or explosive substances, or other substances that upon influence from an active defence measure could endanger people's lives or health, are manufactured or stored.

68. Many acts causing environmental damage are also classified as criminal offences as, for example, article 155 - intentional destruction and damage of forests; article 158 - pollution or littering of bodies of water or reduction of water level or pollution of atmospheric air; article 158 - destruction of fish stocks.

69. The right to life can and must also be protected by health measures.

70. Life expectancy in Estonia has increased by 1.6 years in the period between 1979 and 1989. The average life expectancy in Estonia is approximately 6.4 years less than in developed Western European countries; 70 per cent of this difference is due to the higher mortality rate of people under the age of 65.

71. The following table shows the life expectancy in Estonia (in years) from 1959 to 1989:

Year	Men	Women
1959	64.3	71.6
1970	65.3	74.4
1979	64.2	74.4
1989	66.2	75.0

72. The infant mortality rate has actually been decreasing in the past 10 years, but an increase in child mortality statistics is expected in the near future. Prior to 1992, new-born children were only registered if they weighed over 1,000 grams and from the twenty-eighth week of pregnancy; as of January 1992, new-borns are registered if they weigh more than 500 grams and from the twenty-second week of pregnancy.

73. The following table shows infant mortality (in actual numbers and percent):

Year	Number of deaths	Deaths per thousand
1950	1 647	82.26
1960	628	31.56
1970	381	17.91
1980	379	17.23
1985	333	14.09
1990	276	12.29
1991	258	13.12

Article 7 - Prohibition of torture and other cruel, inhuman or degrading treatment and punishment

74. Estonia has acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984, which entered into force in Estonia on 20 November 1991.

75. Article 18 of the Constitution states that no person may be subjected to torture or to cruel or degrading treatment or punishment and that no person may be subjected to medical or scientific experiments without his or her freely given consent.

76. Under article 114 of the Criminal Code, torture is defined as a crime which causes intentional bodily injury, or is in the form of intentional striking, battering, or an intentional act of violence causing physical pain having a character of torture. Torture is punishable with a prison sentence of up to four years.

77. Article 20 of the Criminal Code establishes the aim of punishment, pursuant to which punishment is a measure which entails the restriction or deprivation of the rights of a convicted offender in accordance with the Code. Through punishment, the State expresses its condemnation of the crime committed by the offender and the offender and other persons are deterred from committing such a crime. It is further established, in article 20, paragraph 3, that the infliction of physical suffering or the degradation of human dignity is not the aim of punishment.

78. Under article 176 of the Criminal Code, subjection of a prisoner or of a person under pre-trial detention to torture or to physical suffering or treatment of such persons in some other unlawful manner by members of the administration or persons monitoring or providing security for places of confinement is punishable with a sentence of up to five years in prison together with removal of the right to work in such a position or to be employed in certain professions.

79. As a result of the legacy of the Soviet occupation, prisons and other detention centres in Estonia are in a poor state. Prison facilities are overcrowded and many inmates are subject to unhealthy living conditions (see also the section on article 9 of this report). The Government is continuing its efforts to improve the overall prison situation. In response to sharp criticism, small solitary confinement cells were abolished in Estonia.

80. Regulations for imposing a sentence of imprisonment are established in article 23 of the Criminal Code, which allows for a term of between 3 months and 15 years. If the death penalty is commuted, it shall be replaced by life imprisonment. In accordance with paragraph 3 of this article, an adult offender shall serve a sentence of imprisonment, in accordance with the court judgement, either in a minimum security prison, a medium security prison or a maximum security prison. Paragraph 4 states that a juvenile offender shall serve a sentence in a juvenile prison.

81. A new Criminal Code and Code of Criminal Procedure are currently being drafted, as well as additions to the Law on Executions pertaining to the fulfilment of verdicts in criminal cases.

Article 8 - Prohibition of slavery, servitude and compulsory labour

82. According to article 29 of the Constitution, every Estonian citizen shall have the right freely to choose his or her field of activity, profession and place of work. The conditions and procedures for exercising this right may be established by law. Unless otherwise established by law, this right exists equally for Estonian citizens and citizens of foreign States and stateless persons who are sojourning in Estonia.

83. Article 29 also states that no person may be compelled against his or her free will to perform work or service, except service in the Defence Forces or alternative service, work required to prevent the spread of infectious diseases, work required in the event of a natural disaster or a catastrophe, or work which by law is required of a person who has been adjudged guilty of an offence.

84. Estonian law does not provide for forced labour as a punitive measure. Mandatory work by prisoners is regulated by the Law on Executive Procedure.

85. Article 3 of the Law on Defence Service (27 January 1992) states that all male Estonian citizens are obligated to participate in national defence. In accordance with article 11, men between the ages of 19 and 28 years may be recruited. Article 16 states that obligatory service may not exceed 18 months, while Government Order No. 235 of 6 August 1992 establishes the length of service for persons called up as of 1 January 1992 to be 12 months. The following persons are exempt from service pursuant to article 14:

(a) Persons studying in an educational institute subordinated to the Defence Forces or in an equivalent institute;

(b) Persons who are deemed unfit to serve due to their state of health;

(c) Persons who have served in the armed forces of a foreign State for no less than 18 months;

(d) Persons who have served a sentence of imprisonment for an intentional crime;

(e) Instructors and graduates of institutes of higher education;

(f) Persons employed in the police or at detention centres are also not recruited for service.

Article 4 provides that any person who is unable to serve in the Defence Forces for religious or ethical reasons shall complete alternate work service.

86. Article 2 of the Law on Alternate Service (15 March 1990) stipulates that alternate service is an alternative to military service which must be completed by male citizens between the ages of 18-27 who, on justifiable

grounds, are unable to serve in the armed forces. In accordance with the Law on Defence Service of 27 January 1992, the term for alternate service was established at 24 months.

87. Estonia has not acceded to international conventions regarding limitation of the spread of narcotic and psychotropic substances.

88. In 1991, there were 750 drug addicts registered in the psychiatric clinics of Estonia; 250 of them had developed a drug dependency while 500 were drug abusers. The estimated total number of drug-dependent persons in Estonia is approximately 8,000.

89. The Criminal Code provides that no person may be charged with a criminal offence who at the time the crime was committed was unable to comprehend the nature of his or her actions or to control his or her actions. Such persons may be subjected to medical treatment (art. 11 (1)).

90. No person is subject to punishment who, after a verdict is handed down but before the sentence is served, becomes mentally ill. In this case, medical treatment may also be used (art. 11 (2)). Medical treatment includes placement in a psychiatric hospital, under high security or regular security conditions (art. 59 (1)).

91. Article 124, point 2, determines that any person who knowingly commits a sane person to a psychiatric institution shall be held criminally liable. The punishment for this offence has been established as up to three years' imprisonment, together with the removal of the right to be employed in certain positions or in a certain profession.

Article 9 - The right to liberty and security of person

92. Every person's right to liberty and security of person is guaranteed by article 20 of the Constitution, which states that:

> "no person shall be deprived of his or her liberty, except in the cases in accordance with procedures established by law:
>
> (1) to execute a conviction or a warrant for arrest issued by a court of law;
>
> (2) to ensure the fulfilment of obligations established by law, in cases of contempt of an instruction by a court of law;
>
> (3) to prevent a criminal act or the infringement of an administrative law, or to bring a person who is justifiably suspected of such an offence before a competent public authority, or to prevent his or her escape;
>
> (4) to arrange for a minor to be placed under supervision or to bring him or her before a competent public authority to determine whether supervision is required;

(5) to place a person suffering from an infectious disease, mental illness, alcoholism or drug abuse in custody, if he or she is dangerous to himself or herself or to others;

(6) to bar illegal immigration into Estonia and to expel a person from Estonia or extradite a person to a foreign State.

No person may be deprived of his or her liberty solely on the grounds of inability to fulfil a contractual obligation."

93. Article 21 of the Constitution states the conditions under which a person may be deprived of liberty:

"Any person who is deprived of his or her liberty shall be informed promptly, in a language and manner which he or she understands, of the reason for the arrest, and of his or her rights, and shall be given the opportunity to notify his or her immediate family of the arrest. An alleged criminal offender shall also be promptly given the opportunity to choose and confer with legal counsel. The right of an alleged criminal offender to notify his or her immediate family of the arrest may only be restricted in the cases and in accordance with procedures established by law, in order to prevent a criminal act or in the interest of establishing facts in criminal proceedings."

94. In accordance with the Code of Administrative Offences (hereinafter CAO) of 8 July 1992, any person who has committed an administrative offence may be detained for a maximum of three hours. In special cases established by law, such a person may be detained up to a maximum of 48 hours.

95. No person may be held in custody for more than 48 hours without specific permission by a court. Such a decision must be promptly made known to the person in custody, in a language and manner he or she understands (art. 21, EC).

96. Detention as a preventive measure is permitted in Estonia only with permission by a court of law. Such permission would have previously been granted by the Prosecutor. Such a decision by a court may be appealed by the person in question. During the investigation of a criminal offence, no person may be detained for longer than two months. If the investigation cannot be completed in this time period, the duration of detention may be extended up to one month at a time for a maximum total of four months. This period may be extended further for more complicated investigations, however, only to a total of nine months, which is the absolute maximum for pre-trial detention.

97. Unlawful detention, arrest and imprisonment are criminal offences under article 170 of the Criminal Code, and carry a punishment of up to three years' imprisonment. Similarly, under article 168 of the Criminal Code, any prosecutor, investigator or investigating officer who knowingly brings criminal charges against an innocent person or who falsifies information used to convict an innocent person shall be charged with a criminal offence, punishable with a sentence of imprisonment of between three to eight years.

98. Estonian law does not currently provide for a concrete mechanism to compensate persons unlawfully detained or arrested. Article 25 of the Constitution states that all persons shall have the right to compensation for moral and material injuries caused by any person's unlawful action.

99. Compensation for injury may be applied for under article 451 of the Civil Code (hereinafter CC), which states that damages incurred by any person through unlawful conviction, unlawful placement of criminal charges, unlawful detention as a preventive measure or unlawful imposition of arrest or community service as punishment for an administrative offence shall be compensated in full by the State, in accordance with procedures established by law, regardless or any fault of investigation, pre-trial or prosecuting authorities or of a court official.

Article 10 - All persons deprived of their liberty shall have the right to be treated humanely and with dignity

100. The bases for depriving a person of his liberty were set forth in detail in the section on article 9 of the Covenant. Article 60 of the Criminal Code previously specified mandatory treatment for alcoholics and substance abusers; this particular article has now been annulled.

101. Article 23 of the Criminal Code specifies that imprisonment can be set for a duration of 3 months to 15 years. The sentence of a person who was under the age of 18 at the time he committed his crime may not exceed 8 years. Minors shall serve their sentences at a juvenile correctional facility.

102. If a person was not mentally competent at the time he committed his crime, or became mentally incompetent after his sentence, he shall be subject to compulsory medical treatment carried out by federal health institutions. These are the kinds of treatment: (i) placement in a mental hospital with normal supervision, (ii) placement in a mental hospital with increased supervision (art. 59, Criminal Code). In choosing the appropriate measure, the court shall consider the crime and the dangerousness of the person, and also the type of treatment that the person requires. Medical treatment shall continue until the person recovers or he ceases to be a threat. A person placed in a heavily supervised mental hospital shall be kept there under conditions that preclude any dangerous behaviour on his part.

103. Pursuant to the Law on Executions, the executive board shall organize detention of individuals in the following facilities: jail; police jail cell; open prison; medium security prison; maximum security prison; juvenile detention centre; pre-trial detention; internment camp.

104. If a person committed a felony before reaching the age of 18, and the court decides that he can be brought to justice without imposing a criminal sentence, the minor may be placed in a special juvenile home or a juvenile therapeutic establishment. Stipulation and the duration of such a placement shall be determined by laws.

105. Pursuant to the Law on Rights of Children, a child with limited freedom or who is confined shall be treated as a child, and with dignity. A child shall be confined in quarters separate from adult prisoners.

106. Unfortunately, the present conditions in Estonian prisons are not quite exemplary. There is not much hope of remedying the situation in correctional facilities which were designed to meet the harsh standards of the Soviet regime. It is impossible to create more natural conditions in these prisons. Because of unemployment, it is not possible to find work for prisoners. There are also problems upon the release of prisoners - it is not possible to grant them a sum of money sufficient to start a new life. This can lead to recidivism. Upon their release, prisoners who have an equivalent of less than one month's pay to their name are given a grant of one month's pay.

107. Since the situation in prisons is complicated, a Law on Amnesty for Convicts has been prepared. Per this Law, commissions are assembled which review each case individually. Prisoners convicted primarily of first offences or misdemeanours shall be released. So far, the Commission assembled by the Ministry of the Interior has reviewed 2,000 convictions, of which 400 have not received amnesty.

108. Estonia has not acceded to the following international agreements:

(a) United Nations Standard Minimum Rules for the Treatment of Prisoners;

(b) Principles of Medical Ethics;

(c) Code of Conduct for Law Enforcement Officials.

Article 11 - No person may be deprived of his liberty solely on the grounds of inability to fulfil a contractual obligation

109. Admissible grounds for the deprivation of liberty are detailed in the report under the section regarding article 9 of the Covenant. The Estonian Constitution also includes the spirit of this article: no person may be deprived of his or her liberty solely on the ground of inability to fulfil a contractual obligation (art. 20, EC).

Article 12 and 13 - The right to freedom of movement and choice of residence; expulsion of aliens

110. These issues are regulated in articles 34, 35 and 36 of the Constitution. All persons who are legally in Estonia have the right to freedom of movement and choice of residence. The right to freedom of movement may be restricted only in the cases and in accordance with procedures established by law for the protection of the rights and liberties of others, in the interest of national defence, in the event of a natural disaster or a catastrophe, or in order to prevent the spread of infectious diseases, to protect the environment, to avoid leaving a minor or mentally ill person without supervision or to guarantee the holding of criminal proceedings.

111. All persons have the right to leave Estonia, and this right may only be restricted in the cases and in accordance with procedures established by law to guarantee the holding of court or pre-trial proceedings or handing down a verdict.

112. No Estonian citizen may be deported from Estonia or be prevented from settling in Estonia. No Estonian citizen may be extradited to a foreign State, except in the cases prescribed by a foreign treaty, and in accordance with procedures established by the applicable treaty and law. Extradition shall be decided by the Government of the Republic. Anyone whose extradition is sought shall be entitled to contest the extradition in an Estonian court.

113. Article 20 of the Constitution allows for imprisonment to bar illegal immigration into Estonia or to expel a person from Estonia or extradite a person to a foreign State. In accordance with article 171, paragraph 5, of the Code of Administrative Offences, aliens and stateless person in Estonia may be detained for up to 48 hours, after which an administrative court decision is required to extend detention; such persons are subject to expulsion from Estonia under administrative law.

114. Decisions by officials may be appealed to the court, while administrative court decisions may be appealed to the district court and National Court. At all stages of proceedings, aliens have the right to the assistance of legal counsel.

115. The Law on Aliens (8 July 1993) establishes that Estonia's immigration quota for aliens may not exceed 0.1 per cent of the permanent population of Estonia (art. 6, para. 1).

116. In 1991-1992 the National Department of Immigration compiled 88 orders to exit Estonia for persons who remained in Estonia on the basis of an expired residence permit. Between 1 July 1992 and 8 March 1993, the National Department of Immigration issued orders to exit Estonia by a specified date in 2,480 cases involving illegal aliens in Estonia and 114 orders for the expulsion of illegal aliens in Estonia were issued by the Police Department.

117. Article 81 of the Criminal Code provides for a punishment of a fine or imprisonment of up to two years for the unlawful crossing of the Estonian border.

Article 14 - Equality of all persons before the courts

118. The Estonian court system is currently facing a significant burden due to ongoing judicial reform, the prolific drafting and adoption of new laws and a marked increase in civil law cases.

Article 14 (1)

119. Article 12 of the Constitution establishes that all persons shall be equal before the law. No person may be discriminated against on the basis of nationality, race, colour, gender, language, origin, religion, political or other beliefs, financial or social status, or other reasons. The rights,

liberties and duties of everyone and all persons, as listed in the Constitution, shall be equal for Estonian citizens as well as for citizens of foreign States and stateless persons in Estonia (art. 9, EC).

120. The right to the protection of the courts in Estonia is guaranteed by article 15 of the Constitution, which states that every person shall have the right to bring a case before the courts if his or her rights or liberties have been violated. The right to the protection of the courts is also stipulated in article 4 of the Law on Courts (Law on Courts, 23 October 1991).

121. The principle of the independence of the courts is established in article 146 of the Constitution, by which the courts shall be independent in their work and shall administer justice in accordance with the Constitution and the law. Judges shall be appointed for life (art. 147, EC). It is prohibited to obstruct or influence the activities of judges and lay judges in the administration of justice or to obstruct the comprehensive, complete and objective hearing of a case (art. 12, Law on Courts), prescribing punishment for such obstruction as an administrative or criminal offence.

122. The openness of court proceedings is established in article 6 of the Law on Courts, which states that court sessions shall be public. The courts may, in the cases and in accordance with procedures established by law, decide to hold sessions, wholly or in part, in camera, for the protection of State or business secrets, public morals or the family life or privacy of persons, or where the interests of a minor, the victim or justice so require.

Article 14 (2)

123. The presumption of innocence is established in article 22 of the Constitution by which no person may be deemed guilty of a criminal offence before a conviction against that person by a court of law enters into force. No person shall be required during a criminal proceeding to prove his or her innocence. No person may be compelled to testify against himself or herself, or against his immediate family.

Article 14 (3)

124. Any person has the right to promptly obtain detailed and speedy information regarding the nature and grounds for any charges placed against him or her, in a language and manner which he or she understands. If any person is deprived of his or her liberty, he or she is promptly given the opportunity to choose and confer with legal counsel. The right of an alleged criminal offender to notify his or her immediate family of the arrest may only be restricted in the cases and in accordance with procedures established by law, in order to prevent a criminal act or in the interest of establishing facts in criminal proceedings. No person may be held in custody for more than 48 hours without specific permission by a court. Such a decision shall be promptly made known to the person in custody, in a language and manner he or she understands. These rights are guaranteed by article 21 of the Constitution.

125. The participation of defence counsel is guaranteed from the moment charges are placed against any person. The Estonian legal system uses a so-called appointed defence institute, for which expenses are set aside from the State budget.

126. The right to a speedy trial (without justifiable delay) is not expressis verbis established in Estonian law.

127. If any person involved in a court case does not understand or does not speak the language in which proceedings are held, such person shall have the right to the services of an interpreter. This right is guaranteed and is employed in practice.

128. If charges are brought against any person, such person has the right of witness immunity, i.e. has the right to refuse to give testimony against himself or herself.

Article 14 (4)

129. Estonian law provides for numerous differences for court cases involving juveniles. For example, the participation of defence counsel and an educator is mandatory in all proceedings due to the age of the defendant in order to assist in the rehabilitation of the defendant. The Criminal Code establishes that a person may be held criminally liable from the age of 15 years. Estonia has also adopted a Law on the Protection of the Child which includes all principles set forth in the United Nations Convention on the Rights of the Child, which entered into force in Estonia on 21 November 1991.

Article 14 (5)

130. Article 148 of the Constitution and article 1 of the Law on Courts establish a three-tiered court system to replace the former two-tiered system. Courts of first instance try court cases and the courts of second instance or district courts are available to review judgements of the courts of first instance as appeal proceedings. The third tier in the Estonian court system is the National Court, which reviews judgements of lower courts as cassation proceedings as well as cases involving constitutional review (art. 149, EC). The National Court also declares null and void any law or other legal act which contradicts the provisions and spirit of the Constitution (art. 152, EC).

131. Article 15 of the Constitution states that every person shall have the right to bring a case before the courts if his or her rights or liberties have been violated. Based on the general norm, the right of all persons in Estonia to the protection of their human rights and liberties is guaranteed. One problem in this area, however, is the lack of training and experience of judges for these types of cases.

Article 15 - Non-retroactive force of criminal law

132. The principles contained in article 15 of the Covenant are fully contained in Estonian domestic legislation.

133. Article 23 of the Constitution is worded almost exactly like article 15 of the Covenant:

> "No person may be convicted of an act if that act did not constitute a criminal offence under a law which was in force at the time the act was committed.
>
> No person may be given a more severe sentence than the one which was applicable at the time the offence was committed. If, subsequent to the offence being committed, a less severe sentence is established by law, this lesser sentence shall be applied.
>
> No person may be tried or punished for a second time for an offence for which he or she has already been finally convicted or acquitted in accordance with the law."

These requirements also apply to military criminal offences, which form a separate chapter within the Criminal Code.

134. Article 6 of the Criminal Code establishes the statute of limitations for criminal offences:

> "(1) The punishment for a criminal offence shall be determined by law in force at the time the act is committed.
>
> (2) Any law which eliminates or reduces punishment for an act shall have retroactive force - its force shall also extend to any act which was committed prior to the adoption of the law.
>
> (3) Any law which establishes or increases punishment for any act shall not have retroactive force."

Estonian law does not provide for any means to bypass the requirements of this article, even during a state of emergency or state of war (art. 130, EC).

135. Article 1, paragraph 3, of the Code of Criminal Procedure currently in force provides that in criminal cases, law is applied which is in force during that procedure, and criminal law which is in force during the time of the verdict.

136. When the new text of the Criminal Code was established in 1992, the new procedure for applying law was prescribed: amnesty from punishment and a spent conviction, or the reclassification of the charge with lessening of sentence, or lessening of sentence without reclassification. In addition, local supervisory committees were formed at facilities fulfilling verdicts in order to review all previous cases and to present materials to the courts for new decisions. The committees were to complete work by 15 July and the courts by 15 September 1992, and additional appeals or protests to the supreme court could follow.

Article 16 - The right of all persons to recognition everywhere as a person before the law

137. In accordance with article 10 of the Civil Code, all persons shall become a person before the law as of the moment of their birth and shall remain such until the moment of their death.

138. Article 12 (1) of the Civil Code establishes that a person becomes fully competent (has the power to be granted and to assume rights under civil law) upon becoming an adult at 18 years of age. If the law allows for marriage before the age of 18 years is attained, any person who marries under the age of 18 shall become fully competent before the law from the moment of their marriage. No person's rights or competence may be restricted other than in the cases and in accordance with procedures established by law.

139. Minors up to the age of 15 are not considered as competent. Transactions shall be performed for them by a parent or guardian, however, they have the right to independently carry out simple transactions (art. 14, CC).

140. Minors between the ages of 15 and 18 have restricted competence. They carry out transactions with the consent of a parent or guardian. They have the right to independently carry out simple transactions, to dispose of wages received from employment or stipends and to enjoy intellectual property rights.

141. Any person who abuses alcohol or narcotic substances and who thereby places his or her family in a difficult financial situation may have his or her competence restricted and may be placed under guardianship (art. 16, CC).

142. The courts may declare as incompetent any person who due to a mental illness or mental disability is not able to comprehend or control his or her actions. He or she shall be placed under guardianship and a guardian shall act on his or her behalf (art. 17, CC).

Article 17 - The right to non-interference with privacy

143. Article 26 of the Constitution establishes that all persons shall have the right to inviolability of family life and privacy. State and local government authorities and their officials may not interfere with the family life or privacy of any person, except in the cases and in accordance with procedures established by law for the protection of health or public morals, public order, the rights and liberties of others, or in order to prevent a criminal act or apprehend a criminal.

144. Article 33 of the Constitution states that the home is inviolable. No person may forcibly enter or search any person's dwelling, property or place of work, except in the cases and in accordance with procedures established by law for the protection of public order or health, or the rights and liberties of others, or in order to prevent a criminal act, to apprehend a criminal offender or to establish facts in criminal proceedings.

145. Article 43 of the Constitution provides that every person shall be entitled to the secrecy of messages transmitted by or to him or her by mail, telegram, telephone or other generally used means. Exceptions may be made on authorization by a court, in the cases and in accordance with procedures established by law in order to prevent a criminal act or to establish facts in criminal proceedings.

146. Illegal search or eviction is a crime pursuant to Criminal Code article 133, as is the violation of secrecy through transmission by a communication device (art. 134), and an aggravating circumstance is if the crime was committed by a person who received access to the information due to his official position.

147. Article 44 of the Constitution requires that, at the request of an Estonian citizen and to the extent and in accordance with procedures established by law, all State and local government authorities and their officials are obligated to provide information on their work, with the exception of information which is prohibited from disclosure by law, and information which is intended for internal use only.

148. Every Estonian citizen shall have the right to obtain information about himself or herself held by State and local government authorities and in State and local government archives, in accordance with procedures established by law. This right may be restricted by law in order to protect the rights and liberties of others and the secrecy of a child's parentage, as well as in order to prevent a criminal act, to apprehend a criminal or to establish facts in criminal proceedings (art. 44, EC).

149. Article 167 of the Criminal Code protects all persons against violation of rights or damages that may result from the incorrect use of government information. It establishes that the violation of the regulations for maintaining or using information in government registries, if such a violation constitutes a violation of the fundamental rights of any person or significant damage to the interests of the State, is an offence punishable with either a fine or up to two years' imprisonment.

150. No State or local government authority or officials therein may collect or store information on the beliefs of any Estonian citizen against his or her free will (art. 42, EC).

Article 17 (2)

151. Article 15 of the Constitution provides every person with the right to bring a case before the courts if his or her rights or liberties have been violated. (See also section on art. 14 of the Covenant.) A case may be closed to the public in cases established by law, which includes protection of people's private and family lives (art. 24, EC).

Article 18 - The right to freedom of thought, conscience and religion

152. Article 40 of the Constitution provides that all persons shall have freedom of conscience, religion and thought. All persons may freely belong to churches or religious associations. There shall be no State church. Every person shall have the freedom to practise his or her religion, either alone or in community with others and in public or in private, unless this endangers public order, health or morals.

153. Article 41 of the Constitution states that every person shall have the right to hold his or her opinions and beliefs. No person may be coerced to change such opinions and beliefs. Beliefs shall not constitute an excuse for a legal offence. No person may be held legally liable because of his or her beliefs. (See also section on art. 17 of this report.)

154. The right to freedom of conscience, religion and thought is protected under the Constitution's provision by which rights and liberties may be restricted only in accordance with the Constitution and such restrictions must be necessary in a democratic society, and their imposition may not distort the nature of the rights and liberties (art. 11, EC). In exercising their rights and liberties and in fulfilling their duties, all persons must respect and consider the rights and liberties of others and must observe the law (art. 19, EC).

155. The right of freedom of conscience, religion and thought established in articles 40, 41 and 11 of the Constitution are such that they may not be restricted even during a state of emergency or state of war (art. 130, EC).

156. Freedom of religion is further protected by the Criminal Code which defines the obstruction of religious ceremonies as a criminal offence punishable with a fine or jail term (art. 138, Criminal Code). For such an offence to be punishable, the religious ceremony that is obstructed must not endanger public order, health or morals.

157. The function of the Law on Churches and Congregations (20 May 1993) is to establish the procedure for joining and regulating the activity of churches and congregations in order to bring to life the freedom of religion ensured for everyone by article 40 of the EC. According to article 4 of the Law on Churches and Congregations, everyone has the right freely to choose, aver and proclaim his or her religious convictions. No one is obligated to provide information on his membership of a religious creed or church. According to article 6, every person has the right to be interred pursuant to his or her religious creed. Article 7 states that every person of at least 15 years of age can independently join or disunite from a congregation pursuant to its statutes. A child under the age of 12 may join his parents' congregation or the congregation of one of the parents by agreement between the parents. A child between the ages of 12 and 15 may belong to a congregation on consent from his or her parents or guardians. Article 9 states that every person has the right to disunite from a church or congregation, notifying the directors of the respective church or congregation in advance. Children of up to 15 years of age must disunite from a congregation together with their parents,

if not decided otherwise by the parents. In the case of a child of up to 15 years of age without parents, the question shall be decided by his or her guardian.

158. The Criminal Code places some restrictions on the freedom to practise religion. Article 201 of the Criminal Code states that if a person organizes or leads a group which is involved in the violation of public order or which causes damages to the health of any person or otherwise threatens the life or rights of any person or persuades any persons to refuse to fulfil their civic duties, such person may be held liable and punished with a fine or up to five years' imprisonment. If any person actively participates in the activities of such a group, or propagates actions that are prescribed by the group's religious teachings and ceremonies, such person may be punished with a fine or with a jail term or with up to three years' imprisonment (art. 201, para. 2, Criminal Code).

159. Parents and legal guardians are guaranteed the right to provide their children with religious education in accordance with their own beliefs. Religious instruction in public schools is voluntary in accordance with article 4, paragraph 4, of the Education Law. As there is no State church in Estonia, religious instruction is of an ecumenical and general Christian nature and does not propagate any specific confession. The principles and topics of religious instruction are established in a curriculum confirmed by the Ministry of Education, which is coordinated with the member churches of the Estonian Council of Churches. The aim of religious instruction is to teach students to honour and value various viewpoints in order that students may develop their own personal beliefs.

160. All children may receive confessional instruction in their congregations' Sunday and church schools.

Article 19 - The right to hold one's beliefs

Article 19 (1)

161. Article 41 of the Constitution states that every person shall have the right to hold his or her opinions and beliefs. No person may be coerced to change such opinions and beliefs. Beliefs shall not constitute an excuse for a legal offence. No person may be held legally liable because of his or her beliefs.

Article 19 (2)

162. Article 45 of the Constitution provides that all persons shall have the right freely to circulate ideas, opinions, beliefs and other information by word, print, picture or other means.

Article 19 (3)

163. This right may be restricted by law in order to protect public order or morals, or the rights and liberties, health, honour and reputation of others. The law may likewise restrict this right for State and local government officials, in order to protect State or business secrets or confidential

communication to which, due to their service, the officials have access, as well as to protect the family life and privacy of others, and in the interests of justice.

164. Article 45, paragraph 3, of the Constitution establishes that there shall be no censorship.

165. Article 17 of the Constitution provides that no person's honour or reputation may be defamed.

166. Honour and dignity may be protected pursuant to civil court procedure, pursuant to article 8 of the Civil Code. Citizens and organizations have the right to demand in the court that information defaming his/her/its honour or dignity be overturned, if the distributor of such information does not prove the truth of such information. If the defamatory information was printed, they must likewise be retracted in print. The procedure in other cases shall be decided by the court.

167. The Criminal Code defines the following as criminal offences which degrade human dignity: article 129: Slander - (1) the propagation of false information and other information defamatory to another person, which is punishable with a fine; (2) libel in print or other means available to many persons or in a petition or anonymous letter addresses to a State, community or other organization, which is punishable with a fine or jail term; article 130: Defamation - Defamation of another person's honour and dignity in an inappropriate manner, which is punishable with a fine or jail term.

Article 20 - Prohibition of propaganda for war

Article 20 (1)

168. Any type of propaganda for war is prohibited in Estonia and is defined as a crime against the State. Article 69 of the Criminal Code states that propaganda for war in any form shall be punishable with imprisonment from three to eight years.

Article 20 (2)

169. Article 12 of the Constitution provides that the incitement of national, racial, religious or political hatred, violence or discrimination shall be prohibited and punishable by law. The incitement of hatred, violence or discrimination between social strata shall equally be prohibited and punishable by law.

170. Under article 72 (1) of the Criminal Code, the incitement of national, racial, religious or political hatred is defined as an offence punishable with a fine, with a jail term or with up to one year of imprisonment. Article 72 (2) defines the same act, if such act brings about the death or injury of any person or other serious consequences, as punishable with up to three years' imprisonment.

171. Under article 72 (1) of the Criminal Code, the violation of the equality of all persons' rights is also defined as a criminal offence. Any person who either directly or indirectly restricts the rights of any person or directly or indirectly gives preference to any person due to his or her ethnic origin, race, colour, sex, language, origin, religious, political or other beliefs, financial situation or social strata may be held liable and punished with a fine or jail term.

Article 21 - The right to peaceful assembly

172. Article 47 of the Constitution provides that all persons shall have the right, without prior permission, peacefully to assemble and conduct meetings. This right may be restricted in the cases and in accordance with procedures established by law in order to ensure national security, public order or morals, traffic safety and the safety of the participants in such meetings or to prevent the spread of infectious diseases. The organization of several types of public assemblies are nevertheless prohibited.

173. The violation of the requirements for organizing mass action is punishable administratively pursuant to article 155 of the Administrative Code. A fine shall be assessed for violation by the organizers of procedures and conditions for preparations and execution of meetings, summits, parades, demonstrations, and other mass action. A fine likewise shall be assessed for the violation of conditions or procedures for holding meetings in public buildings.

174. Article 194 (3) of the Criminal Code prohibits organization of group activity that disturbs the peace or active participation in group activity which grossly disturbs the peace or is related to the apparent insubordination to the lawful demand of a public authority or which obstructs traffic or the work of an enterprise, institution or organization. Punishment is established as a fine, or a jail term of up to five years' imprisonment.

175. Article 77 of the Criminal Code defines the organization of mass disturbance as a criminal offence. The organization of a mass disturbance which brings about looting, destruction, arson or other such activity or direct involvement in any such activity by a participant in the mass disturbance or armed resistance to a public authority is also defined as a criminal offence punishable with 2 to 10 years' imprisonment.

Article 22 - The right of association

Article 22 (1)

176. Article 48 of the Constitution states that all persons shall have the right to form non-profit associations and leagues. The only exception is made for political parties, of which only Estonian citizens may be members (art. 48, EC).

177. Associations, leagues or political parties whose aims or activities are directed towards the violent change of the Estonian constitutional system or otherwise violate a criminal law are prohibited (art. 48, EC).

178. The termination or suspension of the activities of an association, league or political party and its penalization may only be invoked by a court, in cases where a law has been violated (art. 48, EC). Currently, a Law on Non-profit Organizations and Associations is in the Riigikogu.

179. Article 31 of the Constitution establishes that Estonian citizens shall have the right to engage in commercial activities and to form profit-making associations and leagues. Unless otherwise established by law, this right shall exist equally for Estonian citizens and citizens of foreign States and stateless persons who are sojourning in Estonia.

180. Article 29 of the Constitution states that employers and employees may freely join unions and associations. In order to protect their rights and legal interests, unions and associations of employees and employers may use any means which are not prohibited by law. The conditions and procedures for exercising the right to strike are established by the Law on Collective Bargaining (5 May 1993).

181. Membership in trade unions is strictly voluntary. No restrictions are made in the conclusion or termination of an employment contract due to a person's membership or non-membership in a trade union. The regulations for the registration of trade union organizations do not restrict the right of employees to join. The Central Association of Estonian Trade Unions consists of 29 trade union association branches, encompassing some 345,000 members. Any trade unit which disunites from the Central Association has the right to join together with other trade union associations in Estonia. The statutes of the Estonian Association of Trade Unions do not prescribe discrimination of membership on the basis of citizenship, ethnic origin, race or political beliefs. There are no restrictions on the election of trade union directorates either. The Central Association of Estonian Trade Unions has received no complaints regarding violations of the freedom of assembly and association.

182. Article 30 of the Constitution provides that the law may restrict the right of some categories of civil servants to engage in commercial activities and to form profit-making associations, as well as the right to join political parties and some other categories of non-profit associations.

Article 22 (2)

183. The establishment of associations and leagues which possess weapons or are organized in a military fashion or conduct military exercises requires a prior permit, the conditions and procedures of issue of which shall be established by law.

Article 22 (3)

184. Estonia has not acceded to the International Labour Organisation Freedom of Association and Protection of the Right to Organise Convention (No. 87 of 1948), but intends to accede to this and other ILO Conventions in the future.

Article 23 - Marriage and family

185. In Estonia, the family enjoys the protection of the State. This principle is established in article 27 of the Constitution. The family is considered as fundamental for the preservation and growth of the nation, and as the basis of society. The legal bases of marriage and family relationships are regulated by the Marriage and Family Code (hereinafter MFC). A new Law on the Family is being drafted.

186. Estonian families are generally small with an average of 3.1 members. As the divorce rate is quite high, 20.4 per cent of families are families in which a child is being raised by either a single parent or grandparent.

187. Families with many children are entitled to special care by State and local authorities (art. 28, EC).

188. Marriages are performed in State marriage registries (art. 12, para. 1, MFC). The right to be married is obtained upon attaining 18 years of age. In exceptional cases, local government authorities may reduce the age of marriage by up to two years. If this is done, the spouses shall assume all the rights and obligations of a legal adult (art. 15, MFC).

189. Marriages are prohibited between any two persons if at least one is already married; between relatives of a directly ascending or descending line; between brothers and sisters, between half-brothers and half-sisters, between an adoptive parent and an adoptive child; between any two persons if at least one has been declared incompetent by a court of law due to a mental illness or mental disability (art. 16, MFC).

190. Upon entering into marriage, the spouses shall choose to use a common surname, being the surname of either spouse, or each can retain his or her surname.

191. Spouses shall have equal rights within the family (art. 27, EC; art. 3, MFC).

192. Spouses have equal rights in the rearing of their children and in other family matters. Both spouses shall enjoy freedom of activity, profession and residence (arts. 18, 19, MFC). Property amassed by either spouse during the marriage shall be the common property of the spouses, if not otherwise agreed to in a property agreement. Both spouses have an equal right to administer, use and command such property. Spouses shall also enjoy equal rights to property accumulated during the marriage if one spouse was engaged in maintaining the household or caring for children or for some other justifiable reason was unable to independently earn wages (art. 20, MFC).

193. During the time that both spouses are alive, a marriage may be dissolved on the basis of a petition by one or both spouses (art. 35, MFC). No man has the right to initiate a divorce proceeding without his wife's consent during the wife's pregnancy and for one year after the birth of a child (art. 36, MFC).

194. The mutual rights and obligations between the parent and the child are derived from the child's parentage (art. 54, MFC). Children born to parents who are not married to one another shall enjoy rights and obligations equal to those of children born to parents who are married to one another (art. 62, MFC). Children shall be given a surname according to the surname of the parents. If the parents have different surnames, the child shall be given the surname of the father or the mother on the agreement of the parents. Any child whose mother is not married and whose parents have not submitted a joint petition or for whom no court order for the determination of fatherhood has been provided shall be given the surname of the mother (art. 63, MFC). The given name of the child shall be given on the agreement of the parents (art. 64, MFC).

195. Parents have the right and the obligation to rear and care for their children. Parents have equal rights and obligations in regard to their children even if their marriage is dissolved (art. 66, MFC).

196. The protection of the rights and interests of minor children rests primarily with the parents. Parents have the right to demand the return of a child from any person having custody of the child without lawful grounds or a court order. Parental rights may not be exercised in contradiction with the interests of the child (art. 67, MFC).

197. If the parents are separated, the parents shall decide with which parent the child will reside (art. 69, MFC). The parent of a child who does not live with the child shall have the right to communicate with the child and shall be obligated to participate in the rearing of the child. The parent with whom the child lives shall not have the right to obstruct the other parent from communicating with the child or from participating in the rearing of the child (art. 70, MFC).

198. Parents have the obligation to support their juvenile children and their adult children who are studying in a general education school or who are unable to work (art. 82, MFC). If one parent does not sufficiently contribute to the support of a child, support payments may be collected from the parent. Any parent who is paying for the support of a child may be required to provide additional support if such expenses are related to special conditions or the development of a child's potential (art. 87, para. 1, MFC).

199. Family members shall have the right to bring a case before the courts to resolve dispute between them. The court must proceed only from the interests of the child in trying cases involving a child (art. 72, para. 1, MFC).

200. The birth rate has dropped considerably in the past few years. In 1983, 24,400 births were registered in Estonia while in 1992 this figure was 18,400.

201. The Law on Medical Insurance (12 June 1991) establishes that 100 per cent compensation shall be paid from the medical fund on the basis of a medical certificate attesting to inability to work for a total of 126 calender days before or after the birth of the child or for 140 calender days in the case of a multiple birth or a birth with complications.

202. In order to provide support to families, the Government of Estonia is preparing to amend current income tax regulations to account for the number of dependent members in a family. A law to provide young families with loans under preferential conditions is also being drafted.

203. Marriages are performed only between men and women (art. 6, MFC). Only marriages performed in State marriage registries have legal force; marriages performed in religious ceremonies do not have legal force (art. 6, MFC). Spouses' rights and duties shall arise only from marriages performed in State marriage registries (art. 12, MFC).

Article 24 - The right of the child to protection required by his or her status as a minor

204. Parents have the right and obligation to raise and care for their children (art. 27, para. 3, EC). Estonia has also adopted a Law on the Protection of the Child (hereinafter LPC) which contains all the principles established by the United Nations Convention on the Rights of the Child.

205. Article 9 of the LPC establishes that the child has the right to the identity: (1) every child must be registered in the medical facility immediately after birth. From the moment of birth, every child shall have the right to a name, ethnic identity, general education in his or her national culture, to his or her parents and to the care of his or her parents; (2) the child shall be registered in a State agency within the first month of life.

206. Children have the equal right to receive assistance and care and to develop, irrespective of sex or ethnic origin or of whether they live in a complete family or with a single parent, of whether they are adopted or under guardianship, of whether they are born of a registered or unregistered marriage, or whether they are healthy or ill or disabled (art. 10, C).

207. Article 15 of the LPC states that orphans and children without parental care have the right to support by the State.

208. Any child in danger shall be placed in non-dangerous conditions on the decision of the corresponding social service employee until such time as the danger has passed or until a decision is made regarding the care of the child, without the consent of his or her parent or guardian (art. 32, para. 2, LPC).

209. Special conditions are established by Estonian law for legal offenders who are minors, taking into account the age and distinctions of such offenders.

210. Article 23 of the Criminal Code allows for the imposition of a sentence of imprisonment of between 3 months and 15 years. Any person who was under the age of 18 years at the time the crime was committed may be imprisoned for a maximum of 8 years. Juveniles serve a sentence of imprisonment in a juvenile prison.

211. The courts may apply article 61 of the Criminal Code in regard to a minor for the court to place a juvenile in a special educational institution or in a correctional institution if the court finds that the juvenile who committed the offence before attaining 18 years of age can be rehabilitated without being held criminally liable.

212. No person under the age of 18 years may be sentenced to the death penalty.

213. Estonian law provides for numerous differences for court cases involving juveniles. For example, the participation of defence counsel and a pedagogical worker is mandatory in all proceedings due to the age of the accused and in order to assist in the rehabilitation of the accused. The Criminal Code establishes that a person may be held criminally liable from the age of 15 years.

214. Article 76 (1) of the Code of Criminal Procedure stipulates that in placing a juvenile suspect or accused in the custody of a parent, guardian, care giver or the administration of an educational, rehabilitation or medical institution, such persons shall assume the obligation in writing to guarantee that the juvenile suspect or accused will appear before the investigator and before the court and to guarantee the correct behaviour of the juvenile. Article 76 (2) of the Criminal Code stipulates that in receiving the signature for placing the juvenile in custody, the parent, guardian, care giver or administration of the rehabilitation institution shall be informed of the criminal offence of which the juvenile is suspected or with which the juvenile is charged and shall be advised of their liability should the suspect or accused fail to appear before the investigator or before the courts. According to article 76 (3), if a juvenile fails to appear, a fine may be imposed on the juvenile's parent, guardian or care giver.

215. Article 24 (3) states that every child shall have the right to acquire citizenship. Every child with at least one parent who is an Estonian citizen shall have the right by birth to Estonian citizenship (art. 8, EC).

216. Any person who as a minor lost his or her Estonian citizenship shall have the right to have his or her citizenship restored. Article 3 of the Law on Citizenship defines Estonian citizens as:

(a) Persons who were recognized as Estonian citizens or had been admitted to Estonian citizenship before the Law came into force;

(b) Persons recognized as citizens of Estonia by international treaties concluded by the Republic of Estonia;

(c) Children born at a time when the father or mother held Estonian citizenship;

(d) Children born after the death of the father, if the father at the time of his death held Estonian citizenship;

(e) Children found in Estonia, until their citizenship of another country has been proven.

Article 25 - The right to participate in public affairs

217. All citizens shall have the right and the opportunity

(a) To participate in the governing of the State either directly or through representatives;

(b) To elect and be elected;

(c) To enter the government service.

218. Article 56 of the Constitution states that the people shall exercise their supreme power through citizens who have the right to vote by electing the Riigikogu and participating in referenda. According to article 57, every Estonian citizen who has attained 18 years of age shall have the right to vote. An Estonian citizen who has been declared mentally incompetent by a court of law shall not have the right to vote. Article 58 stipulates that the participation in elections of Estonian citizens who have been convicted by a court of law and who are serving a sentence in a place of detention may be restricted by law.

219. Legislative power shall rest with the Riigikogu which shall be comprised of 101 members (arts. 59, 60, EC). Members of the Riigikogu shall be elected in free elections on the principle of proportionality. Elections shall be general, uniform and direct. Voting shall be secret.

220. Every Estonian citizen who is entitled to vote and who has attained 21 years of age may be a candidate for the Riigikogu. The procedures for the election of the Riigikogu are established by the Riigikogu Electoral Law (6 April 1992).

221. The President of the Republic shall be elected by the Riigikogu or, in special cases, by the Electoral Body. The procedure for the election is as follows. The right to present a candidate for President of the Republic shall rest with at least one fifth of the members of the Riigikogu. Any Estonian citizen by birth, who is at least 40 years of age, may be presented as a candidate for President of the Republic. The President of the Republic shall be elected by secret ballot. Each member of the Riigikogu shall have one vote. A candidate who is supported by a two-thirds majority of the members of the Riigikogu shall be considered to be elected. If no candidate receives the required majority, a new round of voting shall be organized on the next day. Before the second round of voting, there shall be a new presentation of candidates. If no candidate receives the required majority in the second round, a third round of voting shall be organized on the same day between the two candidates who received the greatest number of votes in the second round. If the President of the Republic is still not elected in the third round of voting, the Chairman of the Riigikogu shall convene, within one month, an Electoral Body to elect the President of the Republic. The Electoral Body shall be comprised of the members of the Riigikogu and representatives of the local government councils. Each local government council shall elect at least one representative, who must be an Estonian citizen, to the Electoral Body. The Riigikogu shall present the two candidates who received the greatest number of votes in the Riigikogu to the Electoral Body as candidates for

President. The right to present a candidate for President shall also rest with at least 21 members of the Electoral Body. The Electoral Body shall elect the President of the Republic with a majority of those members of the Electoral Body who are present. If no candidate is elected in the first round, a second round of voting shall be organized on the same day between the two candidates who received the greatest number of votes. Further procedures for the election of the President of the Republic shall be established by the Presidential Electoral Law.

222. The Riigikogu shall have the right to put draft laws or other national issues to a referendum. The decision of the people shall be determined by the majority of those participating in the referendum. A law which has been adopted by referendum shall be immediately proclaimed by the President of the Republic. The referendum decision shall be binding on all State bodies. If a draft law which has been put to referendum does not receive a majority of affirmative votes, the President of the Republic shall declare special elections to the Riigikogu.

223. Article 106 states that issues related to the budget, taxes, the financial obligations of the State, the ratification and denouncement of foreign treaties, and the enactment and termination of a state of emergency may not be put to referendum.

224. Procedures for referenda shall be established by the Law on Referenda.

225. The local government units shall be townships and towns (art. 155, EC). In the elections to the local government council, all persons who have attained the age of 18 years and who reside permanently on the territory of that local government unit shall have the right to vote, in accordance with conditions prescribed by law (art. 156, EC).

226. Every Estonian citizen shall have the right freely to choose his or her fields of activity, profession and place of work. Unless otherwise established by law, this right shall exist equally for Estonian citizens and citizens of foreign States and stateless persons who are sojourning in Estonia (art. 29, EC).

227. Positions in State and local government shall be filled by Estonian citizens, in accordance with procedures established by law. In accordance with the law, such positions may in exceptional cases be filled by citizens of foreign States or stateless persons (art. 30, EC).

Article 26 - Equality of all persons before the law

228. The rights, liberties and duties of everyone and all persons, as listed in the Constitution, shall be equal for Estonian citizens as well as for citizens of foreign States and stateless persons who are sojourning in Estonia.

229. All persons shall be equal before the law. No person may be discriminated against on the basis of nationality, race, colour, gender, language, origin, religion, political or other beliefs, financial or social status, or other reasons (art. 12, EC).

230. The incitement of national, racial, religious or political hatred, violence or discrimination shall be prohibited and punishable by law. The incitement of hatred, violence or discrimination between social strata shall equally be prohibited and punishable by law (art. 12, EC).

231. All persons shall have the right to the protection of the State and of the law (art. 13, EC).

232. See also the section on article 20 of this report.

Article 27 - Ethnic, religious or linguistic minorities

233. Every person shall have the right to preserve his or her ethnic identity (art. 49, EC). Ethnic minorities shall have the right, in the interests of their national culture, to establish institutions of self-government in accordance with conditions and procedures established by the Law on Cultural Autonomy for Ethnic Minorities (art. 50, EC).

234. Article 51 of the Estonian Constitution establishes that all persons shall have the right to address a State or local government authority and their officials in Estonian, and to receive answers in Estonian. In localities where at least half of the permanent residents belong to an ethnic minority, all persons shall have the right to receive answers from State and local government authorities and their officials in the language of that national minority.

235. In localities where the language of the majority of the population is other than Estonian, local government authorities may use the language of the majority of the permanent residents of that locality for internal communication to the extent and in accordance with procedures established by law (art. 52, EC).

236. The use of foreign languages, including the languages of ethnic minorities, by State authorities and in court and pre-trial proceedings shall be established by law (art. 52, EC).

237. Article 1 of the Law on Cultural Autonomy for National Minorities (26 October 1993) states that the law considers as national minorities citizens of Estonia, who:

(a) Reside on the territory of Estonia;

(b) Maintain long-standing, firm and lasting ties with Estonia;

(c) Are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics;

(d) Are motivated by a concern to preserve together their cultural traditions, their religion or their language which constitute the basis of their common identity.

238. Cultural autonomy for national minorities is the right of individuals to establish cultural autonomy in order to achieve the cultural rights given to

them by the Constitution. National minority cultural autonomy may be established by persons belonging to German, Russian, Swedish and Jewish minorities and persons belonging to national minorities with a membership of more than 3,000.

239. Further provisions of the Law on Cultural Autonomy include the following:

(a) Article 3 - every member of a national minority has the right to preserve his or her ethnic identity, cultural traditions, native language and religious beliefs;

(b) Article 4 - members of a national minority shall have the right:

(i) To form and support cultural and educational institutions and religious congregations;

(ii) To form ethnic organizations;

(iii) To practise cultural traditions and religious customs if this does not endanger public order, health and morals;

(iv) To use their native tongue in dealings within the limits established by the Language Law;

(v) To publish ethnic language publications;

(vi) To conclude agreements of cooperation between ethnic, cultural and educational institutions and religious congregations;

(vii) To circulate and exchange information in their native tongue;

(c) Article 5 - national minorities shall have the right, in the interests of their ethnic culture, to form institutions of cultural autonomy, that shall observe the laws of Estonia in addressing issues within their competence;

(d) Article 6 - aliens residing in Estonia may participate in the activities of cultural and educational institutions and religious congregations of national minorities, but they shall not be entitled to vote or be elected or appointed to the leadership of the institutions of cultural self-government;

(e) Article 7 - the application for national minority cultural autonomy shall be based on the national register of national minorities which shall be prepared by ethnic cultural societies or federations of these;

(f) Article 10 - persons belonging to a national minority wishing to establish cultural autonomy shall present the appropriate application to the Government of the Republic through their ethnic cultural society or federation of societies;

(g) Article 11 - the principal organizations of cultural autonomy for national minorities shall be the cultural council of a national minority and the cultural boards governing the activities of cultural autonomy institutions;

(h) Article 12 - the cultural council of a national minority shall be elected in direct and uniform elections, by secret ballot;

(i) Article 24 - institutions of cultural autonomy shall be:

(i) Educational institutions providing intensive instruction in the ethnic language or ethnic culture (pre-school institutions and schools);

(ii) Ethnic cultural institutions;

(iii) Ethnic cultural enterprises and publishing houses;

(iv) Ethnic social care institutions;

(j) Article 25 - the establishment of a national minority school (class) and the organization of its work shall be governed by the provisions of the Law on Private Schools;

(k) Article 27 - national minority cultural autonomy and its activities shall be financed from:

(i) Allocations from the State budget

(ii) Local government budgets;

(iii) Cultural autonomy membership fees;

(iv) Contributions, donations and bequests;

(v) Donations from foreign organizations.

240. There are currently 108 general education schools in Estonia with instruction in Russian (15.7 per cent of the total) and 28 mixed language schools. Other schools include the Tallinn Jewish School and the Noarootsi Gymnasium (Swedish Gymnasium), where instruction is primarily in Russian and Estonian, respectively; however, intensive instruction is also provided in the native tongue, with the aim of providing instruction entirely in the native tongue in the future. There are 216,800 pupils enrolled in general education schools, of whom 73,000 (33.7 per cent) are enrolled in schools with instruction in Russian. The number of university students enrolled in studies instructed in Russian is approximately 5,000 (19.5 per cent of total).

241. All schools are financed according to equal standards and therefore one third of resources allocated to education are provided to schools with instruction in Russian.